

REMARKS

Claims 1-19 and 22-23 are pending in the application. Claims 1-5 and 7-19 have been amended to better conform to US practice. Claim 6 has not been amended. Claims 20-21 have been canceled and new claims 22-23 added. No new matter has been added.

Priority

Applicant's priority claim was objected to for format reasons and for listing an improper date. By the present amendment to the specification, Applicant properly claims priority for the application based on the PCT application, which claims the benefit of the original Australian application, as per MPEP 1895.01. To perfect this claim, Applicant will submit a certified copy of his earliest-filed Australian application under separate cover by mail.

Claim Objections – 35 USC 112

Claims 4 and 8-18 were objected to for improper multiple dependency. The present amendment conforms the claims to US practice and Applicant respectfully requests reconsideration of the claims.

Claim Rejections – 35 USC 112

Claims 20-21 were rejected as being omnibus type claims. These claims have been canceled and the rejection is now moot.

Claim Rejections – 35 USC 102

Claims 5, 7/5, and 20 were rejected as being anticipated by Ketteman. To anticipate a claim, the reference must teach every element of the claim:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 863 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In the present case, claim 5 requires the hinges be located at distal ends of the housing and requires first and second clamping means to compress the first and second portions of broken leg-rope, which is not found in Ketteman.

Although the Office Action notes that the "leg rope is not claimed in combination and the clamp of Ketteman is inherently capable of securing a leg rope *if so desired*," Applicant respectfully notes two issues. First, the use of means-plus-function language for the clamping means to make the function of compressing a leg-rope a claim limitation, which is lacking in Ketteman.

Second, Ketteman merely discloses gripping of cables wherein "eccentric arms are pressed down and engage said ends and thereby secure the electric circuit" without compressing the cables and is not inherently capable of securing leg-ropes. As disclosed in the specification, leg-ropes are typically formed of tubular urethane to provide the elongation necessary to prevent injury to surfers and must be highly compressed to achieve a securing grip. Ketteman is dimensioned to grip steel cables and does not inherently provide the ability to grip leg-ropes.

Claim Rejections – 35 USC 103

Claims 6 and 7/6 were rejected as being obvious over Ketteman in view of Leslie.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (See M.P.E.P. Section 2143).

No Motivation to Combine

In the present case, none of these criteria have been met in the Office Action. First, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify Ketteman or combine it with Leslie to provide a substantially semi-circular cross-section.

Both Ketteman and Leslie are drawn to steel trolley wire devices. They both teach the use of a long, tapered (i.e., conical) portion at each end, which teaches or fairly suggests a body having a circular cross-section. As neither reference teaches the provision of a substantially semi-circular cross-section, there would be no reason for one of ordinary skill in the art to combine the two references as provided in the Office Action.

Furthermore, the claims, as a whole, are drawn to a leg-rope connection device that is not taught or fairly suggested by Ketteman and Leslie.

No Reasonable Expectation of Success

Applicant further submits that combining the cross-section of Leslie with the trolley wire sleeve of Ketteman would still not enable Ketteman to be used as a leg-rope connection device and would not result in a substantially semi-circular cross-section.

All Claim Limitations Not Shown

As discussed above with respect to anticipation, Ketteman lacks various limitations. Leslie fails to remedy the problems of Ketteman since it also lacks the same limitations discussed above.

Indeed, the device disclosed in Ketteman, as a whole, lacks many functions and elements of the present invention. At line 34 of Ketteman, the sleeve A is of cast metal. Clearly, such a heavy material would find no use as a leg-rope connection device used in the ocean as such a device would sink and produce excessive drag on a surfboard or surf craft. Furthermore, claim 5 has been amended to require that the first clamping means are provided at a first distal end of the housing, and that the second clamping means are provided at a second distal end of the housing. In Ketteman, the toothed eccentric 3 is not located at an end of the housing A.

Likewise, the device disclosed in Leslie, as a whole, is not directed to a leg-rope connection device able to be used in the ocean. Also, the device in Leslie does not use clamping means provided at the distal ends of the housing.

In view of the above arguments, Applicant respectfully submits that claims 6 and 7/6 are novel and non-obvious over the cited prior art.

Claims 1-3, 19, and 21 were rejected as being obvious over Castagnola in view of Ketteman. Reconsideration and withdrawal of this rejection is respectfully requested in light of the following comments and the mentioned claim amendments.

Claims 1 and 19 have been amended to clarify that the leg-rope connection device and method be for connecting two portions of broken leg-rope and claim 19 has been amended to further point out that the process is performed by hand.

No Motivation to Combine

Castagnola discloses a surfboard ankle leash where the cord is a nylon shock cord that has

an inner rubber core with two layers of nylon sheath. It discloses a clasp 32 for connecting an end of a cord to a portion adjacent the end. The clasp is not hand-operable or movable between a first and second position. As a whole, Castagnola fails to disclose or suggest that broken leg-ropes are a problem, let alone suggest any means or method to solve the problem. It is respectfully submitted that it would not have been obvious to one of ordinary skill in the art to use the device disclosed in Ketteman to repair the cord 20 of Castagnola should it break. The device disclosed in Ketteman is directed to securing broken ends of a trolley-wire for which a strong housing is required, as per the sleeve A being made of cast metal. Such a device would find no application for connecting a broken cord 20 of Castagnola *absent impermissible hindsight*, as no consideration has been given to the device in Ketteman for use in the ocean, for example, to a hydrodynamic surface, frictional drag, buoyancy, ease of use whilst submersed in water, salt and water damage to the device, size of the device and safety.

A leg-rope connection device is generally infrequently required. The bulky device of Ketteman could not be carried by a surfer and regularly exposed to salt water without the metallic components of the device in Ketteman rusting and/or jamming rendering it useless. Furthermore, the elongated shape of the trolley-wire sleeve disclosed in Ketteman would pose a safety hazard if carried by a surfer whilst surfing, which requires freedom of movement and often involves falls.

Still furthermore, the serrated eccentric clamping means of Ketteman are adapted to hold a trolley-wire as is shown by the sharpness of the serrations 3 and the fact that the clamping means does not measurably compress the trolley-wire. Such a clamping means would not find application in holding a leg-rope as the required compression on the leg-rope by the clamping means would not be provided by the device in Ketteman. Furthermore, the serrations would likely simply tear the leg-rope, providing yet further basis why the skilled person would not think it obvious to use the trolley-wire sleeve disclosed in Ketteman with the surfboard ankle leash disclosed in Castagnola, which is wholly silent on the issue of a broken cord 20.

Broken leg-ropes have been a factor in surfing for many decades, however, no-one has previously made the inventive step of constructing a device, able to be used in the ocean, to quickly fix a broken leg-rope. The present rejections are largely based on devices nearly 100 years old and developed well before leg-ropes started to be used for surfing or surf craft. *Ex-post*

facto (i.e., hindsight) analysis cannot be used to find the present claims obvious over a combination of documents, most especially when those documents are from different fields of technology, as is the present case.

All Claim Limitations Not Shown


Neither Castagnola nor Ketteman disclose a rigid polymeric housing or a clamping means having a first open position and a second position (movable by hand in claim 19) sufficiently close to the housing for compressive clamping of the two portions of broken leg-rope between said at least one clamping member and said housing.

In view of the above arguments, Applicant respectfully submits that claims 1-3 and 19 are novel and non-obvious over the cited prior art.

Conclusion

For the reasons cited above, Applicants submit that claims 1-19 and 22-23 are in condition for allowance and requests reconsideration of the application. If there remain any issues that may be disposed of via a telephonic interview, the Examiner is kindly invited to contact the undersigned at the local exchange given below.

Respectfully submitted,



Christopher B. Kilner

Registration No. 45,381

Roberts Abokhair & Mardula, LLC

11800 Sunrise Valley Drive, Suite 1000

Reston, Virginia 20191-5302

(703) 391-2900